REMARKS

This Application has been carefully reviewed in light of the prosecution to date. This amendment responds to the Final Rejection dated December 20, 2006. At the time of the Final Office Action, Claims 10-22 remain pending in this application with Claims 10-22 finally rejected. Favorable reconsideration is respectfully requested.

On the merits, the Office Action rejected Claims 10-22 under 35 U.S.C. §103(a) as being unpatentable over Sakurai (United States Patent No. 4,965,532; hereinafter "Sakurai") in view of Sakurai et al. (United States Patent No. 6,569,109; hereinafter "Sakurai et al."). Applicants respectfully traverse the above rejections for at least the following reasons.

In order to combine references for an obviousness rejection, there must be some teaching, suggestion or incentive supporting the combination. *In re Laskowski*, 871 F.2d 115, 117, 10 U.S.P.Q.2d 1397, 1399 (Fed. Cir. 1989). The fact that a prior art device could be modified so as to produce the claimed invention is not a basis for an obviousness rejection unless the prior art suggested the desirability of such a modification. *In re Gordon*, 733 F.2d 900, 902, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984). In addition, it is also improper to use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re Fritch*, 972 F.2d 1260, 1266, 23 U.S.P.Q.2d 1780, 1784 (Fed. Cir. 1992). Furthermore, in order to make obvious Applicants' claimed invention, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 480 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

The Examiner rejected Claim 10 under 35 U.S.C. §103(a) as being unpatentable over Sakurai in view of Sakurai et al. But Sakurai in view of Sakurai et al. does not recite, suggest, teach, or render obvious all of the claim elements of Applicants' Claim 10. For instance, Sakurai in view of Sakurai et al. does not disclose a starting-process controller for starting a piezomotor

comprising an "adjustable time-delay element providing for controlled reduction of the phase difference between the motor voltage and the motor current in a start-up process for starting up the piezomotor from a large starting angle at initiation of the start-up process towards a smaller operating angle at an operating point, the adjustable time-delay element effecting the reduction in the form of one of: (i) a preset linear gradient ... or (ii) a preset progressive curve ... or (iii) a preset combination of a linear gradient and a progressive curve," as recited in Applicants' Claim 10. The Examiner states in the Final Office Action that Sakurai discloses such element at column 7, line 48 – column 8, line 16. *See* Final Office Action, December 20, 2006, page 3. But such referenced section in Sakurai discloses waveforms for the reference signal, voltage phase signal, current phase signal and phase difference and does not disclose reducing the phase difference using a preset linear gradient, a preset progressive curve, or a preset combination of the two. Therefore, the device in Sakurai does not suggest, recite, or teach all of the claim elements in Applicants' Claim 10. Hence Sakurai in view of Sakurai et al. does not provide for a starting-process controller for starting a piezomotor as recited by Applicants' Claim 10. Therefore, Sakurai in view of Sakurai does not recite, suggest, teach, or render obvious all of the claim elements in Applicants' Claim 10.

In addition, the Examiner has stated that "it would have been obvious to a person of ordinary skill in the art to combine the voltage-current phase comparator of Sakurai et al. with the starting-process controller of Sakurai for the benefit of eliminating the need for an additional reference signal." *See* Final Office Action December 20, 2006, Page 3. If the Examiner is indeed relying on the general knowledge of one of ordinary skill in the art in combining the voltage-current phase comparator of Sakurai et al. with the starting-process controller of Sakurai, then the Examiner has failed to properly support such reliance. In instances where the general knowledge of one of ordinary skill in the art is asserted, "that knowledge must be articulated and

placed on the record. The failure to do so is not consistent with either effective administrative procedure or effective judicial review." *See In Re Sang Su Lee*, 277 F.3d 1338, 1345 (Fed. Cir. 2002). Therefore, the rejection of Claims 10-22 is improper and the Applicants respectfully request that the Examiner reexamine, reconsider, withdraw the rejection to and allow Claims 10-22.

Claims 11-22 depend from independent Claim 10 as discussed above and are therefore believed patentable for at least the same reasons. Applicants further believe the §103(a) rejections of Claims 11-22 to be moot in light of the above remarks and request their withdrawal.

In view of the foregoing amendments and remarks, Applicants respectfully submit that the currently pending claims are clearly patentably distinguishable over the cited and applied references. Accordingly, entry of this amendment, reconsideration of the rejections of the claims over the references cited, and allowance of this application is earnestly solicited.

Respectfully submitted,

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